

## **REMARKS/ARGUMENTS**

### ***Telephonic Examiner Interviews***

Applicant appreciates the Examiner granting telephonic interviews with Applicant's counsels David Weitz on August 10, 2006 and Amy Smith on March 5, 2007.

Applicant submits that claim 10 was discussed during the August 10 interview, and no agreement was reached. Applicant further submits that the Interview Summary completed by the Examiner reflects the substance of the interview. Entry of the Interview Summary form into record is hereby requested.

Applicant submits that the definition of L in claim 10 and the scope of the examination were discussed during the Applicant initiated telephonic interview on March 5, 2007. Applicant proposed amending the definition of L in claim 10 to indicate that L is  $-C(O)-N(R_{23})-$  coupled to any one of the functional groups recited in claim 54 and submitted that claim 10 so amended would meet the definiteness requirement under 35 U.S.C. § 112, Second Paragraph and would still be within the current search scope. The Examiner concurred and agreed to examine amended claim 10 when presented.

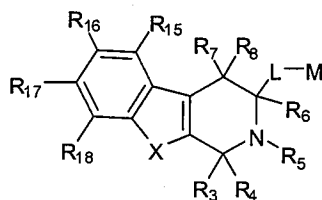
### ***Information Disclosure Statement***

Applicant acknowledges with appreciation receipt of an initialed copy of the IDS filed on 08/25/2006 indicating it has been considered by the Examiner.

### ***Restriction Requirement***

Applicant notes with appreciation that the Examiner has broadened the search scope and acknowledges the Examiner's contention that the elected and examined subject matter is as follows:

Compounds of the Formula of claim 10:



wherein

R<sub>3</sub> and R<sub>4</sub> are each independently H, alkyl, aminoalkyl, oxaalkyl, aromatic ring, cyano, a carbonyl group, or a thiocarbonyl group;

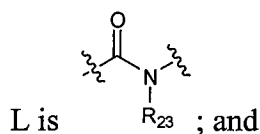
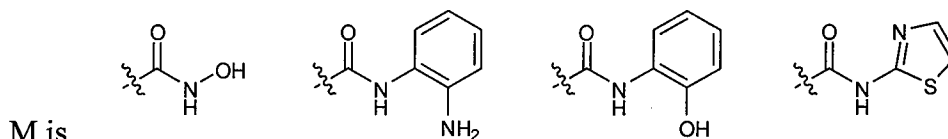
R<sub>5</sub> and R<sub>6</sub> are each independently H, alkyl, aminoalkyl, oxaalkyl, aromatic ring, cyano, carbonyl group, and a thiocarbonyl, or sulfonyl group;

R<sub>7</sub> and R<sub>8</sub> are each independently H, alkyl, aminoalkyl, oxaalkyl, aromatic ring, alkoxy, aryloxy, alkylamino, arylamino, alkylthio, arylthio, acylamino, sulfonylamino, nitro, cyano, halogen, hydroxyl, thiol, amino, carbonyl group, or thiocarbonyl group;

R<sub>15</sub>, R<sub>16</sub>, R<sub>17</sub> and R<sub>18</sub> are each independently H, alkyl, aminoalkyl, oxaalkyl, aromatic ring, alkoxy, aryloxy, alkylamino, arylamino, alkylthio, arylthio, acylamino, sulfonylamino, nitro, cyano, halogen, hydroxyl, thiol, amino, a carbonyl group, or a thiocarbonyl group;

X is NR<sub>14</sub>;

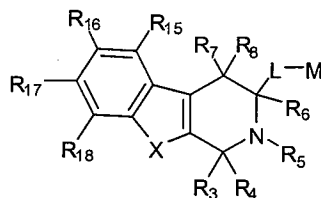
R<sub>14</sub> is H, hydroxyl, alkyl, aromatic ring, alkoxy, aryloxy, a carbonyl group, a thiocarbonyl, or a sulfonyl group;



R<sub>23</sub> is C<sub>1-10</sub>alkyl.

Applicant further acknowledges the Examiner's contention that non-elected and non-examined subject matter is as follows:

Compounds of the Formula of claim 10:



wherein

R<sub>3</sub> and R<sub>4</sub> are taken together to form a ring, which is optionally substituted;

R<sub>5</sub> and R<sub>6</sub> are taken together to form a 3, 4, 5, 6, 7, or 8 membered ring, which is optionally substituted;

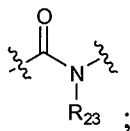
R<sub>7</sub> and R<sub>8</sub> are taken together to form a carbonyl group, thiocarbonyl, imine, alkene, and ring;

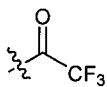
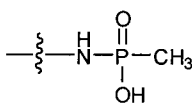
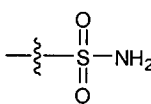
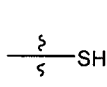
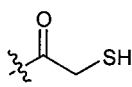
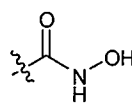
R<sub>6</sub> and R<sub>7</sub> are taken together to form a 3, 4, 5, 6, 7, or 8 membered ring, which is optionally substituted;

R<sub>15</sub> and R<sub>16</sub>, R<sub>16</sub> and R<sub>17</sub>, and/or R<sub>17</sub> and R<sub>18</sub> are each taken together to form a 3, 4, 5, 6, 7, or 8 membered ring, which is optionally substituted;

X is O, or S;

R<sub>14</sub> is H, hydroxyl, alkyl, aromatic ring, alkoxy, aryloxy, a carbonyl group, a thiocarbonyl, or a sulfonyl group;

L is a group other than  ;

M is      

Applicant amends and cancels claims to remove non-elected subject matter; claims 10, 16-23, 26, 43-46 and 65 are now pending.

Applicant reserves the right pursuant to 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of the present application.

***Claim Rejections – 35 U.S.C. § 112, First Paragraph***

Applicant notes with appreciation that the Examiner withdraws the rejection of claims 10, 16-38 and 49-65 under 35 U.S.C. § 112, First Paragraph, with respect to the variable “L”.

The Examiner issues a new rejection to claims 10, 16-36, 38-50 and 54-67 under 35 U.S.C. § 112, First Paragraph, on the grounds that the rejected claims allegedly fail to meet the written description requirement. Specifically, the Examiner contends that the recitation of “unsubstituted or further substituted through available valencies” for the variables R<sub>3</sub>, R<sub>4</sub>, R<sub>5</sub>, R<sub>6</sub>, R<sub>7</sub>, R<sub>8</sub>, R<sub>15</sub>, R<sub>16</sub>, R<sub>17</sub>, R<sub>18</sub> and X in claims 10, 26, 33-35, and the recitation of “substituted or unsubstituted” of the rings in claims 16, 17, 20-25, 27-32, 61-63 and 66 are indefinite. The Examiner alleges that the substituents are not identified in the claims and the specification does not provide a definition of the possible substituents.

Applicants amend claims 10, 16, 17, 20-23, 26, and 43-46, removing the “substituted or unsubstituted” language. Applicants respectfully request the Examiner to withdraw his rejection to claims 10, 16, 17, 20-23, 26 and 43-46 under 35 U.S.C. § 112, First Paragraph. Claims 24-25 and 27-36, 38-42, 47-50, 55-56 and 67 are withdrawn, and claims 37 and 57-64 are cancelled; the Examiner’s rejection of these claims is moot.

***Claim Rejections – 35 U.S.C. § 112, Second Paragraph***

Claims 10, 16-65 stands rejected under 35 U.S.C. § 112, Second Paragraph for being indefinite.

**A. Rejections Regarding “L”**

The Examiner rejected claims 10 and 16-65 on the ground that the definition of variable L in these claims was alleged to be indefinite. The Examiner maintains the rejection and further rejects new claims 66-67 on the same ground.

As proposed to the Examiner during the telephonic interview, Applicant amends claim 10 defining L as the moiety -C(O)-N(R<sub>23</sub>)-R<sub>30</sub>, wherein R<sub>30</sub> is selected from the group of moieties recited in claim 54. Support for the amendment may be found in paragraphs [00118] and [00119], and in Figures 2B and 2C; no new matter is added by the amendment. Applicant believes

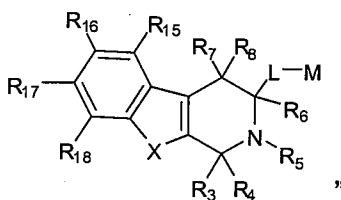
amended claim 10 is definite regarding L and respectfully requests the Examiner to withdraw his rejection to claim 10 and the pending claims depending therefrom under 35 U.S.C. § 112, Second Paragraph. Claims 24-25, 27-42, 47-64, and 66-67 are withdrawn or cancelled; thus the Examiner's rejection to these claims is moot.

### B. Other Rejections

The Examiner rejects claims 10, 16-36, 38-50, and 54-67, alleging that these claims are indefinite.

#### (1)

The Examiner contends that claim 10 is drawn to a compound "comprising the formula



The Examiner alleges the term "comprises" is an open-ended transitional phrase and currently claim 1 is drawn to a compound of the formula and anything else under the sun. The Examiner suggests the term "comprising" should be deleted and the word "of" should be inserted.

Applicant amends claim 10 according to the Examiner's suggestion and respectfully requests the withdrawal of the rejection of claim 10 under 35 U.S.C. § 112, Second Paragraph.

#### (2)

The Examiner rejects claim 18 on the ground that the claim recites the limitation "further comprises a substituent selected from the group consisting of alkyl, aromatic ring, cyano group, halogen, and carbonyl group." The Examiner alleges the term "comprises" is an open-ended transitional phrase and is improper for Markush-type language. The Examiner suggests amending the claim to state "A compound ... wherein the C<sub>1-10</sub>alkyl, aminoalkyl, or oxaalkyl is substituted with a substituent selected from the group consisting of ... ."

Applicant amends claim 18 according to the Examiner's suggestion and respectfully requests the withdrawal of the rejection of claim 18 under 35 U.S.C. § 112, Second Paragraph.

(3)

The Examiner rejects claim 19 on the ground that the claim recites the limitation “further comprises a substituted or unsubstituted aromatic ring” The Examiner alleges the term “comprises” is an open-ended transitional phrase and is improper for Markush-type language. The Examiner suggests amending the claim to state “A compound ... wherein the C<sub>1-10</sub>alkyl, aminoalkyl, or oxaalkyl is substituted with a substituted or unsubstituted aromatic ring.”

Applicant amends claim 19 according to the Examiner’s suggestion and respectively requests the withdrawal of the rejection of claim 19 under 35 U.S.C. § 112, Second Paragraph.

(4)

The Examiner rejects claims 10, 16-36, 38-50 and 57-67 alleging that each of the claims states “substituted or unsubstituted” variables, but none of the substituents are identified and the specification does not provide what the substituents are.

Responding to Examiner’s rejection of the above claim under 35 U.S.C. § 112, First Paragraph, Applicant has amended claims 10, 16, 17, 20-23 and 26 removing the “substituted or unsubstituted” language. Applicants respectfully request the Examiner to withdraw his rejection to claims 10, 16, 17, 20-23 and 26 under 35 U.S.C. § 112, Second Paragraph. Claims 24-25, 27-35, 61-63 and 66-67 are either withdrawn or cancelled; the Examiner’s rejection of these claims is moot.

(5)

The Examiner rejects claims 54-56 alleging that the definition of the optional substituents of L is indefinite.


Applicant cancelled claim 54 and withdraws claims 55-56; thus the Examiner’s rejection is obviated.

**CONCLUSION**

Applicants earnestly believe that they are entitled to letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent application to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,  
Takeda San Diego, Inc.

Dated: March 13, 2007

By:   
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